

Internal Revenue Service, Treasury

§ 1.901-1

INCOME FROM SOURCES WITHOUT THE  
UNITED STATES

FOREIGN TAX CREDIT

§ 1.901-1 Allowance of credit for taxes.

(a) *In general.* Citizens of the United States, domestic corporations, and certain aliens resident in the United States, domestic corporations, and certain aliens resident in the United States or Puerto Rico may choose to claim a credit, as provided in section 901, against the tax imposed by chapter 1 of the Code for taxes paid or accrued to foreign countries and possessions of the United States, subject to the conditions prescribed in the following subparagraphs:

(1) *Citizen of the United States.* A citizen of the United States, whether resident or nonresident, may claim a credit for (i) the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed paid or accrued under section 905(b)) during the taxable year to any foreign country or to any possession of the United States; and (ii) his share of any such taxes of a partnership of which he is a member, or of an estate or trust of which he is a beneficiary.

(2) *Domestic corporation.* A domestic corporation may claim a credit for (i) the amount of any income, war profits, and excess profits taxes paid or accrued during the taxable year to any foreign country, or to any possession of the United States; and (ii) the taxes deemed to have been paid or accrued under section 902, 905(b), or 960.

(3) *Alien resident of the United States or Puerto Rico.* An alien resident of the United States, or an alien individual who is a bona fide resident of Puerto Rico during the entire taxable year, may claim a credit for—

(i) The amount of any income, war profits, and excess profits taxes paid or accrued during the taxable year to any possession of the United States;

(ii) The amount of any such taxes paid or accrued (or deemed paid or accrued under section 905(b)) during the taxable year to any foreign country, if the foreign country of which such alien resident is a citizen or subject, in imposing such taxes, allows a similar

credit to citizens of the United States residing in such country; and

(iii) His share of any such taxes of a partnership of which he is a member, or of an estate or trust of which he is a beneficiary, paid or accrued (or deemed paid or accrued under section 905(b)) during the taxable year,

(a) To any foreign country, if the foreign country of which such alien resident is a citizen or subject, in imposing such taxes, allows a similar credit to citizens of the United States residing in such country, or

(b) To any possession of the United States, as the case may be.

(4) *Limitation.* Section 907(a) limits the credit against the tax imposed by chapter 1 of the Code for certain foreign taxes paid or accrued with respect to foreign oil or gas extraction income. See § 1.907(a)-1.

(b) *Foreign countries which satisfy the similar credit requirement—*(1) *Taxes of foreign country of which alien resident is citizen or subject.* A foreign country of which an alien resident is a citizen or subject allows a similar credit, within the meaning of section 901(b)(3), to a United States citizen residing in such country either—

(i) If such country allows him a credit against its income taxes for the amount of income taxes paid or accrued to the United States; or

(ii) If, in imposing such taxes, such country exempts from taxation the income received by him from sources within the United States (as determined under part I (section 861 and following), subchapter N, chapter 1 of the Code).

(2) *Taxes of foreign country other than one of which alien resident is citizen or subject.* An alien resident of the United States may claim a credit for income taxes paid or accrued by him to a foreign country other than the one of which he is a citizen or subject if the country of which he is a citizen or subject either—

(i) Allows a credit to a United States citizen residing therein for income taxes paid or accrued by him to such other foreign country; or

(ii) In imposing its income taxes, exempts from taxation the income of a United States citizen residing therein

from sources within such other foreign country.

(c) *Deduction denied if credit claimed.* If a taxpayer chooses with respect to any taxable year to claim a credit for taxes to any extent, such choice will be considered to apply to income, war profits, and excess profits taxes paid or accrued in such taxable year to all foreign countries and possessions of the United States, and no portion of any such taxes shall be allowed as a deduction from gross income in such taxable year or any succeeding taxable year. See section 275(a)(4).

(d) *Period during which election can be made or changed.* The taxpayer may, for a particular taxable year, claim the benefits of section 901 (or claim a deduction in lieu of a foreign tax credit) at any time before the expiration of the period prescribed by section 6511(d)(3)(A) (or section 6511(c) if the period is extended by agreement).

(e) *Joint return.* In the case of a husband and wife making a joint return, credit for taxes paid or accrued to any foreign country or to any possession of the United States shall be computed upon the basis of the total taxes so paid by or accrued against the spouses.

(f) *Taxes against which credit not allowed.* The credit for taxes shall be allowed only against the tax imposed by chapter 1 of the Code, but it shall not be allowed against the following taxes imposed under that chapter:

- (1) The minimum tax for tax preferences imposed by section 56;
- (2) The 10 percent tax on premature distributions to owner-employees imposed by section 72(m)(5)(B);
- (3) The tax on lump sum distributions imposed by section 402(e);
- (4) The additional tax on income from certain retirement accounts imposed by section 408(f);
- (5) The tax on accumulated earnings imposed by section 531;
- (6) The personal holding company tax imposed by section 541;
- (7) The additional tax relating to war loss recoveries imposed by section 1333; and

(8) The additional tax relating to recoveries of foreign expropriation losses imposed by section 1351.

(g) *Taxpayers to whom credit not allowed.* Among those to whom the credit

for taxes is not allowed are the following:

- (1) A foreign corporation (see section 882(c)(4));
- (2) A China Trade Act corporation (see section 942);
- (3) A citizen or domestic corporation entitled to the benefits of the exemption provided by section 931 for income from possessions of the United States (see section 931(g));
- (4) A nonresident alien, other than an alien individual who is a bona fide resident of Puerto Rico during the entire taxable year (see sections 874(c) and 901(b)(3));
- (5) A citizen of a possession of the United States (except Puerto Rico) who is not otherwise a citizen of the United States and who is not a resident of the United States and persons who are inhabitants of the Virgin Islands (see section 932).

(h) *Taxpayers denied credit in a particular taxable year.* Taxpayers who are denied the credit for taxes for particular taxable years are the following:

- (1) An individual who elects to pay the optional tax imposed by section 3, or one who elects under section 144 to take the standard deduction (see section 36);
- (2) A taxpayer who elects to deduct taxes paid or accrued to any foreign country or possession of the United States (see sections 164 and 275);
- (3) A regulated investment company which has exercised the election under section 853.

(i) *Dividends from a DISC treated as foreign.* For purposes of sections 901 through 906 and the regulations thereunder, any amount treated as a dividend from a corporation which is a DISC or former DISC (as defined in section 992(a) (1) or (3) as the case may be) will be treated as a dividend from a foreign corporation to the extent such dividend is treated under section 861(a)(2)(D) as income from sources without the United States.

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